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June 30, 2010

## **Demand Justice for Hero ATF Agent**

***ATF Special Agent William G. Clark Unjustly Prosecuted for Murder in U.S. Virgin Islands for Defending Battered Woman in Domestic Dispute***

### **Co-Sponsor Resolution Honoring Special Agent Clark**

Dear Colleague:

In October, Special Agent William G. Clark of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will go on trial in a U.S. Virgin Islands court, charged with Second Degree Murder and related counts. **But the facts show his actions were heroic, not criminal.**

While assigned to the USVI in 2008 to combat gun crime, Special Agent Clark witnessed numerous domestic disputes between two neighbors. On Sunday morning, September 7, 2008, upon leaving his apartment, he found a female neighbor Marguerite Duncan by a carport "crying and trembling" as she pleaded for his help, knowing that Clark was a federal agent. Nearby, "a large man (her boyfriend, Mr. Marcus Sukow), was standing outside completely naked, and clearly under the influence of drugs and/or alcohol," according to court documents. (It was later shown from toxicology reports that Mr. Sukow had a blood alcohol content of .29 and was under the influence of illegal narcotics, including barbituates.)

Mr. Sukow, who stood 5'11" and weighed 260 pounds, was "pounding on Ms. Duncan's vehicle with his fists, and had broken off the side view mirror" of her car. He was throwing large landscaping rocks at Ms. Duncan's car and later brandished a large, heavy metal "Maglite" flashlight and began beating the hood of Ms. Duncan's vehicle. Convinced that Ms. Duncan was in danger, and believing that he had an obligation as a law enforcement officer to protect her, Special Agent Clark remained on the scene and tried to talk Mr. Sukow down from his rage.

During the incident, Special Agent Clark heard Mr. Sukow threaten him various times, saying "You want a piece of me, b\*\*ch?" and "Will, you're a big boy, but I'm going to give you a country ass kicking." Special Agent Clark also heard Mr. Sukow say, "I have a gun in the house and I'm going to get it and blow this b\*\*ch's head off."

When Ms. Duncan took refuge in Special Agent Clark's car, Mr. Sukow charged Special Agent Clark with the Maglite raised. The driver's door was open, and Special Agent Clark was partially sitting in the driver's seat with one foot on the ground. According to eyewitnesses, Sukow was "swinging the flashlight in [a] chopping manner, [and] charged at the vehicle." Special Agent Clark believed that the intoxicated and belligerent Mr. Sukow was using the Maglite as a deadly weapon and that Mr. Sukow was going to strike him in the head with the Maglite. With no time to close the door

and retreat into his vehicle, and fearing significant bodily harm to himself and to Ms. Duncan, Special Agent Clark fired his weapon, consistent with his ATF training, in order to stop that threat. Having fended off this deadly attack, Special Agent Clark immediately took steps to render first aid and summon medical assistance, but Mr. Sukow ultimately succumbed to his injuries.

An ATF incident review panel, which included law enforcement agencies outside of ATF, has cleared Special Agent Clark, who remains on active duty. The panel unanimously found that Special Agent Clark *"was acting within his scope of employment and authority."* [His] actions were in compliance with ATF policies and procedures including whether the use of deadly force was necessary. [Lastly,] there was *no evidence of misconduct or inappropriate action*" on the part of Special Agent Clark. In fact, the Justice Department is bearing the costs of Clark's legal defense.

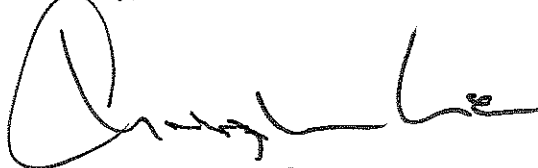
This prosecution would normally be pre-empted by Special Agent Clark's federal immunity, a doctrine which holds that, under the U.S. Constitution's Supremacy Clause, federal law enforcement officers are immune from state prosecution if the officer was "performing an act which he was authorized to do by the law of the United States" and "in performing that act, the federal officer did what was necessary and proper."

Yet the USVI court has denied Special Agent Clark's multiple attempts to invoke this defense because of the nonsensical claim that the U.S. Constitution's Supremacy Clause mentions "States" and not territories, such as the USVI. Specifically, the court held that "the Supremacy Clause, as set forth in the U.S. Constitution Article VI, Cl2., is not applicable to the unincorporated territory of the U.S. Virgin Islands," and that "The 'Supremacy Clause' Doctrine is not a fundamental right." *In short, the court ruled that U.S. Constitution does not apply in the U.S. Virgin Islands.*

Special Agent William G. Clark, a heroic man who puts his life on the line each day to protect the safety of others, is being wrongfully accused of murder and needs your help. **Soon I plan to introduce the attached resolution in support of Special Agent Clark, and I invite you to join me as an original co-sponsor.**

If you would like more information on how to get involved, or more information on the facts of the case, the ATF's review of the matter or the USVI court's unconstitutional holding on the Supremacy Clause, please contact Laura Ringdahl in my office at [laura.ringdahl@mail.house.gov](mailto:laura.ringdahl@mail.house.gov) or x55265.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher J. Lee". The signature is fluid and cursive, with a large initial "C" and a long horizontal stroke extending to the right.

CHRISTOPHER J. LEE<sup>\*</sup>  
Member of Congress